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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,848	10/31/2003	James Brennan	MN1-014US	9317
29150	7590	08/29/2005	EXAMINER	
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE, STE 500 SPOKANE, WA 99201			TRAN, CONGVAN	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/698,848

Applicant(s)

BRENNAN ET AL.

Examiner

CongVan Tran

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-15, 17, 19-22, 24, 25, 27-30, 33, 35, 37-39, 41-43, 45-48, 51 and 53 is/are rejected.
- 7) ☒ Claim(s) 5, 8, 16, 18, 23, 26, 31, 32, 34, 36, 40, 44, 49, 50, 52 and 54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6, 7, 9-15, 17, 19-22, 24-25, 27-30, 33, 35, 37-39, 41-43, 45-48, 51, 53 and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamaguchi et al. (6,907,269).

Regarding claim 1-2, 6, 19-20, 24, Yamaguchi discloses a mobile communication base station equipment, comprising: configuring a first device having a smart antenna to selectively allow a second device to operatively associate with a beam downlink transmittable to said second device using said smart antenna (see fig.5A, fig.7A, elements 31, 32, 33, col.7, lines 33-49 and its description); configuring said first device to determine information from at least one uplink transmission receivable from said second device through said smart antenna (see fig.5A, fig.7A, elements 33, 37, 22, 15, col.7, line 59-col.8, line 7 and its description); configuring said first device to determine if said associated second device should operatively associate with a different beam downlink transmittable using said smart antenna based on said determined information (see fig.5A, fig.7A, elements 33, 37, 22, 15, 23 and its description); and if said

associated second device should operatively associate with a different beam, then configuring said first device to allow said second device to operatively associate with said different beam (see fig.5A, fig.7A, elements 24, 12 and its description).

Regarding claims 3-4, 10-11, 13, 21-22, 28-29, 38-39, 46-48, Yamaguchi further discloses, wherein configuring said first device to determine information from at least one uplink transmission receivable from said second device through said smart antenna further includes: configuring said first device to be capable of receiving uplink transmittable messages through said smart antenna; configuring said first device to be capable of passively gathering signal parameter information from a plurality of said uplink transmittable messages (see fig.7, 15, 11, 13 and its description).

Regarding claims 7, 12, 14, 25, 30, 42, Yamaguchi further discloses wherein configuring said first device to determine if said associated second device should operatively associate with said different beam downlink transmittable using said smart antenna based on said determined information further includes: configuring said first device to be capable of comparing said determined information to corresponding beam association threshold information (see fig. 14, and its description).

Regarding claims 9, 15, 17, Yamaguchi discloses a mobile communication base station equipment, comprising: determining if a client device that is currently operatively associated with a beam that is being downlink transmitted to said client device from an access point device using a smart antenna should instead be operatively associated with a different beam downlink transmitted from said smart antenna based on information determined from at least one uplink transmission received from said client

device through said smart antenna (see fig.7A, elements 33, 37, 22, 15, col.7, line 59- col.8, line 7 and its description); and if determined that said associated client device should be operatively associated with a different beam, then causing said access point device to force said client device to operatively associate with said different beam (see fig.7A, elements 24, 12 and its description).

Regarding claims 27, 33, 35, 45, 51, 53, Yamaguchi discloses a mobile communication base station equipment, comprising: means for transmitting a plurality of smart antenna beams (see fig.5A, fig.7A, element 35-1, 35-2, 35-3, 35-4, and its description); means for determining if a client device that is currently operatively associated with a first smart antenna beam should instead be operatively associated with a second smart antenna beam based on information determined from at least one transmission received from said client device (see fig.5A, fig.7A, elements 20-1, 20-2, 15, 22, 23, 205, and its description); and means for forcing said client device to operatively associate with said second smart antenna beam when it is determined that said client device should be operatively associated with second smart antenna beam (see fig.5A, fig.7A, elements 12, 24, and its description).

Regarding claims 37, 41, 43, Yamaguchi discloses a mobile communication base station equipment, comprising: at least one smart antenna (see fig.7A, element 33, and its description); at least one transceiver operatively coupled to said smart antenna and configured to send and receive electromagnetic signals using said smart antenna (see fig.7A, elements 15, 13, and its description); logic operatively coupled to said transceiver and configured to selectively allow a second device to operatively associate

with a beam downlink transmittable to said second device using said smart antenna, determine information from at least one uplink transmission receivable from said second device through said smart antenna, determine if said associated second device should operatively associate with a different beam downlink transmittable using said smart antenna based on said determined information, and if said associated second device should operatively associate with a different beam then allow said second device to operatively associate with said different beam (see fig.7A, elements 12, 13, 15, 22, 23, 24, 33 and its description).

***Allowable Subject Matter***

3. Claims 5, 8, 16, 18, 23, 26, 31, 32, 34, 36, 40, 44, 49, 50, 52 and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CongVan Tran whose telephone number is 571-272-7871. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**CONGVAN TRAN**  
**PRIMARY EXAMINER**

CongVan Tran  
Primary Examiner  
Art Unit 2683

Aug. 23, 2005.